

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

REBECCA ELMORE,
Plaintiff,

v.

JOSEPH LEHMAN,
Defendant.

Case No. C05-5836RJB

ORDER DENYING
MOTION FOR STAY

This matter comes before the court on plaintiff's Motion for Stay/Response to R & R. Dkt. 10. The court has considered the relevant documents and the remainder of the file herein.

On December 30, 2005, plaintiff filed a civil complaint, requesting damages for having been held beyond the early release date. Dkt. 1. Following plaintiff's failure to respond to an order directing plaintiff to file an amended complaint, U.S. Magistrate Judge J. Kelley Arnold issued a Report and Recommendation, recommending that the case be dismissed as barred by the statute of limitations, and, alternatively, as failing to allege violation of a constitutional right. Dkt. 7. On March 27, 2006, the court adopted the Report and Recommendation and dismissed the case. Dkt. 8.

On March 27, 2006, after the court had issued its order dismissing the case, plaintiff filed a motion, requesting a stay of proceedings. Dkt. 9. In the motion, plaintiff contends that issues raised in the Report and Recommendation, including the statute of limitations and qualified immunity, are presently before the Ninth Circuit U.S. Court of Appeals and are not yet settled law. *Id.* Although the court has dismissed the case, in the interest of fairness, the court will consider plaintiff's motion.

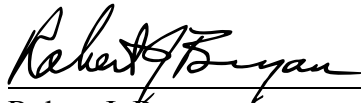
1 Plaintiff's claims are clearly barred by the statute of limitations. *See* Report and Recommendation,
2 Dkt. 7. Plaintiff was released from prison on July 11, 1999. He did not file this civil case until December
3 30, 2005, well beyond the three year statute of limitations. Plaintiff has not shown good cause for staying
4 this case, even if some legal issues regarding the merits of his claims are on appeal in other cases. The
5 motion should be denied.

6 Therefore, it is hereby

7 **ORDERED** that plaintiff's Motion to Stay/Response to R & R (Dkt. 10) is **DENIED**.

8 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any
9 party appearing *pro se* at said party's last known address.

10 DATED this 5th day of April, 2006.

11 
12 Robert J. Bryan
13 United States District Judge